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| 09/810,891  | 03/16/2001  | Louis H. Borders     | WVANP011            | 6686             |
| 34071   | 7590        | 11/02/2005           | EXAMINER            |                  |
| IPVENTURE, INC.<br>5150 EL CAMINO REAL<br>SUITE A-22<br>LOS ALTOS, CA 94022 |             |                      | BOYCE, ANDRE D      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3623                |                  |

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/810,891

Applicant(s)

BORDERS ET AL.

Examiner

Andre Boyce

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/16/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. This Final Office Action is in response to Applicant's amendment filed August 18, 2005. Claims 1, 6-9, 11, and 12 have been amended. Claims 13-20 have been canceled. Claims 21-26 have been added. Claims 1-12 and 21-26 are pending.
2. The previously pending rejection to claims 1-9, 11 and 12 under 35 U.S.C. 101 have been withdrawn.
3. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new grounds of rejection.

***Claim Objections***

4. Claim 12 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 12 fails to further limit independent claim 1.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. Claims 1-12 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (USPN 6,741,995), in view of Dietrich et al (USPN 6,526,392), in further view of Crici et al (US 2005/0027580).

As per claims 1 and 12, Chen et al disclose a method for allocating system capacity among a plurality of customers in a system (i.e., method for creating an using dynamic profiles of consumer behavior in order to model enterprise data, column 1, lines 60-63), comprising: associating a customer point value with each customer according to a customer point system (i.e., segmentation of the customers based upon certain attributes, including customers by percentile to a particular segment code, column 3, lines 53-58 and table 2), the customer point values being determined with reference to customer order data (i.e., retailing and electronic commerce, column 3, lines 45-46); and dividing and assigning the plurality of customers into a plurality of customer groups, each customer group corresponding to a range of customer point values (i.e., segmentation of customers in to a plurality of groups based upon certain attributes, column 3, lines 53-58), and wherein the range of customer point values associated with selected customer groups is adjusted to cause the actual capacity allocation distribution to converge to a target capacity allocation distribution (i.e., segmenting of customers into one or more groups, based upon customer profiles, wherein the customer profiles are analyzed by a product planner to determine whether to enter or divest a line of business, column 8, lines 12-25).

Chen et al does not disclose determining an actual capacity allocation distribution among the plurality of customer groups with reference to the customer order data, and wherein the at least one of the windows available to be selected depends on the customer group to which the specific customer is assigned and the adjusted range of customer point values.

Dietrich et al disclose the use of customer and baseline profiles with a service network model (column 2, lines 42-44), including shipment of goods to a customer (column 3, lines 32-35), wherein the data is analyzed to create customer profiles describing customer service activity and evaluate the incremental cost and resource allocation (i.e., range) of adding new customer to the service network (column 3, lines 57-67), in order to determine the correct price range (i.e., target allocation, column 4, lines 1-3). Further, Dietrich discloses wherein the at least one of the windows available to be selected depends on the customer group to which the specific customer is assigned and the adjusted range of customer point values (i.e., a suitable shipping profile presented to the customer, based upon customer data, column 7, lines 7-24).

Neither, Chen et al nor Dietrich et al disclose wherein a delivery interface with a plurality of delivery windows is generated to allow a specific customer to select at least one of the windows for delivering an order to the specific customer. Crici et al discloses a service receiver (i.e., specific customer) accessing the schedule of a service provider in order to determine which days and times are available to make the appointment (§ 0017 and § 0023)

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Dietrich et al discloses suitable shipping profile presented to the customer, based upon customer data (column 7, lines 7-24), while Chen et al disclose including a plurality of expressions for segmenting customers (column 4, lines 37-41), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include adjusting the range of customer point values associated with selected customer groups and adjusting the range of customer point values associated with selected customer groups, wherein a delivery interface with a plurality of delivery windows is generated to allow a specific customer to select at least one of the windows for delivering an order to the specific customer, wherein the at least one of the windows available to be selected depends on the customer group to which the specific customer is assigned and the adjusted range of customer point values in Chen et al, as seen in Dietrich et al and Crici et al, respectively, thus effectively determining the delivery availability for a customer based upon customer profile, making Chen et al more robust.

As per claim 2, Chen et al disclose a new customer group corresponding to those of the plurality of customers associated with the system less than a predetermined period of time (i.e., segmentation based upon the recency (R) of the customer profile, wherein a new customer would have low R value based upon a particular time, column 5, lines 30-32).

As per claim 3, Chen et al disclose the new customer group is determined without reference to the customer point system (i.e., customer group can be based upon segmentation codes, table 4).

As per claims 4 and 5, Chen et al does not disclose allocating system capacity among the plurality of customers according to the customer groups, wherein the system capacity comprises delivery resources capacity. Dietrich et al disclose the shipment of goods to a customer (column 3, lines 32-35), as the allocation of resources. Further, Dietrich et al disclose associating customers in a plurality of groups (i.e., baseline profile, including summarized information about existing customers, column 6, lines 29-31). Further, Dietrich et al disclose determining which customers to offer a particular service, based upon profile (i.e., customer groups, column 5, lines 33-36). Both Chen et al and Dietrich et al are concerned with effective consumer profiling in order to understand the fit of the customer in relation to other customers. Further, Chen et al disclose including a plurality of expressions for segmenting customers (column 4, lines 37-41), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include allocating capacity of delivery resources in Chen et al, as seen in Dietrich et al, thus allowing for consideration of the fit of new customers with other related service activity that may be using the same resources, making Chen et al more robust.

As per claim 6, Chen et al does not disclose generating the delivery interface for presentation to the specific customer, the availability of specific windows in the delivery interface being determined with reference to the customer group to which the specific customer is assigned. Dietrich et al disclose a suitable shipping profile presented to the customer, based upon customer data (column 7, lines 7-24). Both

Chen et al and Dietrich et al are concerned with effective consumer profiling in order to understand the fit of the customer in relation to other customers. Further, Chen et al disclose including a plurality of expressions for segmenting customers (column 4, lines 37-41), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include generating a delivery window in Chen et al, as seen in Dietrich et al, thus allowing for consideration of the fit of new customers with other related service activity that may be using the same resources, making Chen et al more robust.

As per claim 7, Chen et al disclose associating a customer group override with selected ones of the plurality of customers and allocating system capacity for the selected ones of the plurality of customers being done with reference to the customer group override (i.e., specifying a customer group as an expression, wherein the expressions are used to evaluate the group, regardless of numeric value, thus allowing the user to override the values, column 8, lines 51-56).

As per claim 8, Chen et al disclose information in the customer order data for each customer comprise at least one of customer order size and customer order frequency (i.e., frequency F and monetary M of customer profile in the retailing and electronic commerce environment, column 5, lines 30-33).

As per claim 9, Chen et al disclose iterating division of the plurality of customers into the customer groups (i.e., profile composition, including combining one or more groups or segments, provided by segmentation assignment, column 3, lines 56-58). Chen et al does not disclose determination of an actual capacity allocation



distribution, and wherein the customer point value ranges are adjusted accordingly to effect convergence of the actual capacity allocation distribution to the target capacity allocation distribution. Dietrich et al disclose the use of customer and baseline profiles with a service network model (column 2, lines 42-44), including shipment of goods to a customer (column 3, lines 32-35), wherein the data is analyzed to create customer profiles describing customer service activity and evaluate the incremental cost and resource allocation (i.e., range) of adding new customer to the service network (column 3, lines 57-67), in order to determine the correct price range (i.e., target allocation, column 4, lines 1-3). Both Chen et al and Dietrich et al are concerned with effective consumer profiling in order to understand the fit of the customer in relation to other customers. Further, Chen et al disclose including a plurality of expressions for segmenting customers (column 4, lines 37-41), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include adjusting the range of customer point values associated with selected customer groups and adjusting the range of customer point values associated with selected customer groups in Chen et al, as seen in Dietrich et al, thus allowing for consideration of the fit of new customers with other related service activity that may be using the same resources, making Chen et al more robust.

As per claim 10, Chen et al disclose the method is entirely automated (computer system 113, figure 1).

As per claims 11 Chen et al disclose the range of customer point values associated with selected customer groups is adjusted manually to cause the actual capacity allocation distribution to converge to a target capacity allocation distribution (i.e., segmenting of customers into one or more groups, based upon customer profiles, wherein the customer profiles are analyzed by a product planner to determine whether to enter or divest a line of business, column 8, lines 12-25).

As per claim 21, neither Chen et al nor Dietrich et al disclose the plurality of delivery windows are transmitted to a remote platform via a wide area network for presentation to the specific customer, and wherein the method further comprises determining which of the plurality of windows are available for delivery of the order with reference to currently available system resources. Crici et al disclose an internet-based appointment scheduling system, wherein the service provider can view and change their appointment schedules based upon resources (§ 0016). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a plurality of delivery windows are transmitted to a remote platform via a wide area network and determining which of the plurality of windows are available for delivery of the order with reference to currently available system resources in Chen et al, as seen in Crici et al, thereby effectively determining the delivery availability of a service provider, making Chen et al more robust.

As per claim 22, Chen et al disclose the specific customer is associated with a group name (i.e., profile name, table 4).

As per claim 23, neither Chen et al nor Dietrich et al disclose the delivery interface indicates information based on the group name of the customer. Crici et al disclose the service receiver provided with their own customized screen display (i.e., based upon customer designation, ¶ 0019). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the delivery interface indicates information based on the group name of the customer in Chen et al, as seen in Crici et al, thereby effectively determining the delivery availability of a service provider, making Chen et al more robust.

As per claim 24, Chen et al disclose the specific customer is associated with a group name and a customer group override (i.e., specifying a customer group as an expression, wherein the expressions are used to evaluate the group, regardless of numeric value, thus allowing the user to override the values, column 8, lines 51-56). Neither Chen et al nor Dietrich et al disclose at least one of the windows that the specific customer can select for delivery is determined based on which of the group name and the customer group override is dominant. Crici et al disclose the service receiver provided with their own customized screen display (i.e., based upon customer designation, ¶ 0019). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the delivery interface indicates information based on the group name of the customer in Chen et al, as seen in Crici et al, thereby effectively determining the delivery availability of a service provider, making Chen et al more robust.

As per claim 25, Chen et al disclose the customer group override is associated with an override expiration date, after which the group name dominates the customer group override (i.e., specifying a customer group as an expression, wherein the expressions are used to evaluate the group, regardless of numeric value, thus allowing the user to override the values, column 8, lines 51-56).

Claim 26 is rejected based upon the same rationale as claim, since it contains substantially similar limitations.

### ***Response to Arguments***

7. In the Remarks, with respect to claim 1, Applicant argues that Dietrich does not teach or suggest the range of customer point values associated with selected customer groups is adjusted to cause the actual capacity allocation distribution to converge to a target capacity allocation distribution. The Examiner submits Chen et al as disclosing that limitation, as seen in the above rejection. Applicant also argues that neither Chen nor Dietrich disclose or suggest a delivery interface with a plurality of delivery windows is generated to allow a specific customer to select at least one of the windows for delivering an order to the specific customer. The Examiner submits Crici et al as disclosing that limitation, as seen in the above rejection.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Shinagawa et al (USPN 5897629) disclose solving optimization and delivery planning problems.

-Martin et al (USPN 6292784) disclose setting and reporting product delivery dates.

-Jacobs et al (US 2001/0037229) disclose providing an enhanced scheduling process.

-Edgar et al (USPN 5848395) disclose an appointment booking and scheduling system.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571) 272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
adb  
October 28, 2005

  
SUSANNA M. DIAZ  
PRIMARY EXAMINER  
Au 3623